

Message Text

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67

ORIGIN EUR-12

INFO OCT-01 ISO-00 EB-07 COME-00 TRSE-00 L-03 CIAE-00

INR-07 NSAE-00 /030 R

DRAFTED BY EUR/EE:RACHRISTENSEN:LG

APPROVED BY EUR/EE:NGANDREWS

TREASURY:MSEARING (PHONE)

COMMERCE:BEWT:JBURGESS (PHONE)

EB/EWT:MLORIMER

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P 162153Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST PRIORITY

UNCLAS STATE 011629

E.O. 11652: N/A

TAGS: EEWT, RO

SUBJECT: ISLAND CREEK COAL

REF: BUCHAREST 251

1. FOLLOWING DECEMBER 23 MEETING BETWEEN TREASURY ASSISTANT SECRETARY PARSKY AND AMBASSADOR BOGDAN TO DISCUSS ISLAND CREEK MATTER, REPRESENTATIVES OF TREASURY, STATE AND COMMERCE HAVE REVIEWED STATUS OF THIS PROBLEM. AFTER CONSULTATIONS WITH IRS AND TREASURY'S TAX GENERAL COUNSEL ON STATUS OF COST COMPANIES AND POSSIBLE REVOCATION OF EXISTING REVENUE RULING WHICH PERMITS COST COMPANY STATUS, IT WAS DETERMINED THAT REVOCATION OF COST COMPANIES IS UNDER SERIOUS CONSIDERATION ALTHOUGH NO FINAL DECISION HAS BEEN REACHED. TREASURY IS ATTEMPTING TO ASSURE AN EARLY DECISION ON THIS ISSUE. IN VIEW OF FAIRNESS TO OTHER INTERESTED PARTIES, POSSIBILITY OF AN EARLY DECISION ON COST COMPANY STATUS, AND THE LIKELIHOOD OF ELIMINATION OF SUCH STATUS, WE DO NOT BELIEVE IT WOULD BE ADVISABLE
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TO ATTEMPT TO OBTAIN AN EXCEPTION TO IRS POLICY OF NOT

ISSUING ADVANCE OPINION ON COST COMPANY STATUS IN ISLAND CREEK CASE.

2. ROMANIAN EMBASSY HAS BEEN ADVISED OF CURRENT STATUS AND HAS ALSO BEEN TOLD THAT IT IS NECESSARY TO OBTAIN US LEGAL COUNSEL WHO CAN ADVISE GOR OF TAX CONSEQUENCES OF ELIMINATION OF COST COMPANIES AND OF IMPLICATIONS OF RE-STRUCTURING OF JOINT VENTURE TO SOME OTHER CORPORATE OR NON-CORPORATE FORM.

3. WE DO NOT BELIEVE THAT ELIMINATION OF COST COMPANY STATUS WOULD PRESENT ANY INSURMOUNTABLE BARRIER TO FORMATION OF THIS JOINT VENTURE, BUT ROMANIANS SHOULD CAREFULLY CONSIDER FINANCIAL AND LEGAL CONSEQUENCES OF ALTERNATE FORMS OF ORGANIZATION. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COAL, PROGRAMS (PROJECTS), JOINT VENTURES
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JAN 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE011629
Document Source: CORE
Document Unique ID: 00
Drafter: RACHRISTENSEN:LG
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760017-0728
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760148/aaaabqvz.tel
Line Count: 76
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 BUCHAREST 251
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 18 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 JUN 2004 by schwenja>; APPROVED <12 NOV 2004 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ISLAND CREEK COAL
TAGS: EEWT, RO
To: BUCHAREST
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006